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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVEN S. HOMER,
PAUL DOCZY, and MARK SOLOMON

Appeal 2008-0955
Application 10/661,717
Technology Center 2800

Decided: July 10, 2008

Before KENNETH W. HAIRSTON, JOHN A. JEFFERY,
and R. EUGENE VARNDELL, JR., *Administrative Patent Judges*.

VARNDELL, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from the Examiner's rejection of claims 13-20 and 24-27. We have jurisdiction under 35 U.S.C. § 6(b). We AFFIRM.

STATUS OF CLAIMS

Claims 13-20 and 24-27 are on appeal. The Final Rejection mailed on April 5, 2006, included claims 1-4, 6-8, 10-20, and 22-27 in the rejected

Appeal 2008-0955
Application 10/661,717

claims (Final Rej. 2). However, the Examiner's Answer mailed on December 7, 2006 allowed claims 1-4, 6-8, 10-12, 22, and 23 (Ans. 2-3). The Examiner's Answer maintained the rejection of claims 13-20 and 24-27 (Ans. 4).

STATEMENT OF THE CASE

Appellants' invention relates to a computing system and method comprising a docking station (or providing a computer base), a display housing (or providing a computer display), and mechanically attaching the docking station (or computer base) to the display housing (or display) with means for connecting (or mounting arm) (Spec. 1-2). The means for connecting (or mounting arm) has a first end pivotally connected to the base of the docking station (or computer base) and a second end pivotally connected to the display housing (or display) (Spec. 1). The display is rotated to a vertical position over the base such that a center of gravity of the display is between a first pivot point (or Axis-A) at the base and a second pivot point (or Axis-B) at the display (Spec. 2, 6).

The Examiner relies on the following prior art reference to show unpatentability:

Landry US 2003/0021083 A1 Jan. 30, 2003

The Examiner rejects claims 13-20 and 24-27 alternatively under § 102(e) or § 103(a) (Ans. 4-8). We treat these rejections separately in the following discussions.

The issues raised on appeal are:

1. Whether Landry teaches all structural elements recited in claims 13-20 and 24-27 on appeal within the meaning of 35 U.S.C. § 102(e)?
2. Whether the Examiner has established a prima facie case of obviousness for claims 13-20 and 24-27 on appeal based on the teachings of Landry within the meaning of 35 U.S.C. § 103(a)?

Appellants separately argue independent claims 13 and 18 and dependent claim 15 (Br. 16-18). Appellants' Brief contains no separate arguments for dependent claims 14, 16, 17, 19, 20, and 24-27. These claims are grouped based on their dependency as follows: claims 14, 24 and 25 with argued claim 13; dependent claims 16 and 17 with argued claim 15; and dependent claims 19, 20, 26, and 27 with argued claim 18. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Claims 13, 15, and 18 are reproduced below.

13. A method, comprising:
providing a computer base housing electronic components;
providing a computer display housing electronic components;
mechanically attaching the base to the display with a curved mounting arm; and
adjusting the display to a vertical position such that the display abuts a straight portion of the curved mounting arm and a center of gravity of the display is between a first pivot point at the base and a second pivot point at the display.

15. The method of claim 14 further comprising:
adjusting the display to a horizontal position so the display rest on a support surface; and
forming triangular contact locations with the display and support surface.

18. A computing system, comprising:

a docking station comprising a base supportable on a support surface and housing electronic components, a carrier, and means for connecting the base to the carrier;

a display housing electronic components and mechanically connected to the carrier and electrically coupled to the base through the means for connecting; and

wherein the display is supportable off the support surface and above the base such that the display abuts against a straight portion of the means for connecting and a center of gravity of the display is between two different and parallel axes that pass through two different rotational locations and that are normal to a support surface supporting the base.

Rather than repeat the arguments of Appellants or the Examiner, we refer to the Appeal Brief filed on August 3, 2006 and the Examiner's Answer mailed on December 7, 2006 for their respective details. In this decision, we have considered only those arguments actually made by Appellants. Arguments which Appellants could have made but did not make in their Appeal Brief have not been considered and are deemed to be waived. *See 37 C.F.R. § 41.37(c)(1)(vii).* Appellants untimely submitted a Reply Brief on March 7, 2007. Appellants were notified that the Reply Brief was not considered or entered in an Office communication mailed on March 30, 2007. Accordingly, the arguments included in the Reply Brief have not been considered in this Decision.

OPINION

Anticipation Rejection of Claims 13 and 18

The Examiner explains that Landry discloses providing a computer base (86) housing electronic components (Landry ¶ 0019); providing a computer display housing electronic components; and mechanically

attaching the base to the display with a curved mounting arm (204) (Ans. 4, Final Rej. 4), as required in the first three paragraphs of claim 13 on appeal. The Appellants do not challenge these positions of the Examiner. In fact, the Appellants admit that Fig. 6 of Landry shows a member (204) connects a base (194) and display (88) and that the member (204) (allegedly the claimed “mounting arm”) includes a straight portion that extends outwardly from the display (88) (Br. 16).

The Examiner further explains that Landry discloses a computing system comprising a docking station comprising a base (86) supportable on its surface (not numbered, see Figs. 6-9 of Landry) and housing electronic components (e), a carrier (216), and means for connecting (204) the base (86) to the carrier (216), display (88) housing electronic components and mechanically connected to the carrier (216) and electrically coupled to the base (86) through the means for connecting (204) (Ans. 6-7, Final Rej. 5-6), as required in the first two paragraphs of claim 18 on appeal. The Appellants do not challenge these positions of the Examiner. In fact, as discussed above, Appellants admit that Fig. 6 of Landry shows a member (204) [or means for connecting] connects a base (194) and display (88) and that the member (204) includes a straight portion that extends outwardly from the display (88) (Br. 16).

Accordingly, the patentability of claims 13 and 18 on appeal is concerned with the limitations in the last paragraphs of claims 13 and 18. The last paragraphs of claims 13 and 18 on appeal include two limitations. A first limitation is concerned with the display abutting a straight portion of the curved mounting arm (claim 13) or means for connecting (claim 18). Hereinafter, this limitation is referred to as the “abutting” limitation. A

second limitation is concerned with the arrangement of a center of gravity of the display. Hereinafter, this limitation is referred to as the “center of gravity” limitation.

Appellants refer to Fig. 3 and paragraphs 0035-0038 of the Specification when explaining the last paragraphs of claims 13 and 18 (Br. 4). The abutting limitation of claim 13 requires adjusting the display (14) to a vertical position such that the display (14) abuts a straight portion (108) of the curved mounting arm (34) (Br. 4; Fig. 3, Spec. ¶¶ 0035-0038). Again, referring to Fig. 3 and paragraphs 0035-0038 of the Specification, the abutting limitation of claim 18 requires a means for connecting (34) the base (32) to the carrier (30) where the carrier (30) is supportable off the support surface (150) and above the base (32) such that the carrier (30) abuts against a straight portion (108) of the means for connecting (34) (Br. 4).

Appellants argue that Landry does not teach or suggest the abutting limitation of claims 13 and 18 on appeal, which includes adjusting the display to a vertical position “such that the display [or carrier] abuts a straight portion of the curved mounting arm [means for connecting]” (Br. 16, 18). Appellants infer that the abutting limitation of claims 13 and 18 corresponds to the structure or arrangement shown in Fig. 3 of the present Specification (Br. 4).

During patent examination, the pending claims must be given their broadest reasonable interpretation “consistent with the specification.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005) (en banc). Words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification. *In re Zletz*, 893 F.2d 319,

321 (Fed. Cir. 1989). The plain meaning of the word “abut” includes “be next to.”¹

We find that the abutting limitation of claims 13 and 18 on appeal has a broader meaning than argued by Appellants, and which is broader than shown in Fig. 3 of the Specification. The abutting limitation does not require that straight portion 108 of the curved mounting arm (34) is arranged parallel to the display (36) or carrier (30), as shown in Fig. 3 of the Specification. For example, the straight portion (108) of the curved mounting arm (34) can be perpendicular to the display (14) or carrier (30) and still abut the same, such as shown for member (204) in Figs. 6 and 7 of Landry.

In conclusion, we view Fig. 7 of Landry as showing that (the front end) of straight portion of member (204) abuts (“is next to”) the display (88) whatever the adjusted position of the display (88), as required in claims 13 and 18 on appeal. Therefore, Landry teaches that “the display [or carrier] abuts a straight portion of the curved mounting arm [means for connecting]” whatever the position of the display, as required in the abutting limitation in claims 13 and 18 on appeal.

Referring to Fig. 3 of the Specification, the center of gravity limitation of claim 13 requires the center of gravity (CG) of the display (14) is between a first pivot point (140A) at the base (32) and a second pivot point (140B) at the display (14) (Br. 4). Also referring to Fig. 3 of the present application,

¹*The American Heritage® Dictionary of the English Language (2007), available at <http://www.credoreference.com/entry.jsp?xrefid=6986987&secid=A0031200DAB> (last visited June 23, 2008).*

the center of gravity limitation of claim 18 requires the center of gravity (CG) of the display (14) is between two different and parallel axes (Axis-A, Axis-B) that pass through two different rotational locations (140A, 140B) and that are normal to a support surface (150) supporting the base (34) (Br. 4).

The Examiner argues that backward rotation of the arm (204) as shown in the display in Fig. 6 of Landry would allow for a center of gravity of the display between a first pivot point (i.e., about hinge 90) at the base and a second pivot point (i.e., at hinge 206) at the display (88) (Final Rej. 4-5). The Examiner's Answer includes draftsman's sketches of Figs. 6 and 7 (Ans. 5). While admitting that these sketches are not provided in the Landry reference (Ans. 4), the Examiner explains that the sketches of Figs. 6 and 7 show that a clockwise rotation of the arm and the display would maintain a center of gravity of the display between a first pivot point at the base (i.e., about hinge 90) and a second pivot point at the display (i.e., at hinge 206) (Ans. 6).

We find that the Examiner has not provided a *prima facie* case of anticipation for the center of gravity limitation in claims 13 and 18 on appeal. The fact that a certain result or characteristic *may* occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art). “The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). While the positions of the Examiner demonstrate a possibility

where the center of gravity of the display can be arranged as required in claims 13 and 18 on appeal, the Examiner has not established that the center of gravity of the display proposed by Landry necessarily must be in the arrangement required in claims 13 and 18 on appeal.

Since the Examiner has not shown where Landry necessarily teaches all limitations required in claims 13 and 18 on appeal, the Examiner has not established a *prima facie* case of anticipation for these claims. Therefore, the 102(e) rejection of claims 13 and 18 is reversed. For similar reasons, the § 102(e) rejection of claims 14, 19, 20, and 24-27 that depend directly or indirectly on claims 13 and 18 is reversed.

Anticipation Rejection of Claim 15

Appellants argue claim 15 separately (Br. 17-18). Appellants refer to Figs. 4 and 5 and paragraphs 0041 and 0042 of the Specification, when describing claim 15 on appeal (Br. 4). Claim 15 indirectly depends from claim 13 and further defines adjusting the display to a horizontal position so that the display rests on a support surface, and forming triangular contact locations with the display and support surface. The triangular contact locations are represented as points A, B, and C in Figs. 12 and 13 of the Specification.

The Examiner argues that Landry discloses a method comprising adjusting the display (88) to a horizontal position so the display rests on a support surface (not numbered), and forming triangular contact locations with the display and support surface, and further comprising forming a first contact location in a first corner of the display (i.e., a first lower, rear edge), forming a second contact location in a second corner of

the display (i.e., the opposite lower, rear edge), and forming a third contact location on the mounting arm (204), as well as comprising forming a first contact location in a first corner of the display, forming a second contact location in a second corner of the display, and forming a third contact location on the base (86) (Ans. 6). The Examiner further argues that although not specifically "shown," paragraphs 0034 and 0035 of Landry teach telescopic movement of the arm (204), which would allow for placement of the display contact points as claimed (Ans. 6).

We cannot agree with the Examiner. While the Examiner explains a possibility where the display of Landry may be arranged as required in claim 15 on appeal, the Examiner has not established that the display of Landry necessarily must be in the arrangement required in claim 15 on appeal. Since the Examiner has not shown where Landry necessarily adjusts the display to a horizontal position so that the display rests on a support surface and forms triangular contact locations with the display and support surface, as required in claim 15 on appeal, the Examiner has not established a *prima facie* case of anticipation for this claim. For these additional reasons, the anticipation rejection of claim 15 and claims 16 and 17 that depend thereon is reversed.

Obviousness Rejection of Claims 13 and 18

In rejecting claims under 35 U.S.C. §103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966). Above, we explained

that Landry teaches all of the limitations in claims 13 and 18 with the exception of the center of gravity limitation. For the same reason, the limitations in claims 13 and 18 that are taught by Landry would have been obvious to one of ordinary skill in the art in view of Landry.

In addition, we find that the "center of gravity" limitation in the last paragraphs of claims 13 and 18 on appeal would have been obvious in view of the teachings of Landry. The display of Landry necessarily has a center of gravity. Further, the structures shown in Figures 6 and 7 of Landry show a wide range of movement of the member (204) relative to the display (88) and the base section (194). The display (88) can be oriented up to a maximum vertical orientation determined by the length of the member (204) (Landry [0034]). The member (204) may be constructed with a variety of lengths and may include a telescopic assembly, which can significantly increase the overall effective length of the member (204) (Landry ¶ 0034). The member (204) and the hinge (90) may be extended outwardly from the base section (194) or inwardly into the receptacle of the base section (194) (Landry ¶ 0035). Landry further teaches a foot (210) providing additional support for the computing device (10) (Landry ¶ 0037). In summary, the teachings of Landry describe a wide range of orientations for the member (204), display (88) and base section (190), which encompass the member (204) having an arrangement as shown in Figs. 6 and 7 to an orientation where the display (88) extends above and behind the base station (194), as well as the use of a foot (210) to support such orientations of member (204). Accordingly, we find that it would have been within the skill of one of ordinary skill in the art to adjust the display (88), member (204), base station (196), and associated hinges (90, 206) so that the center of gravity of the

display (88) would be arranged between the hinges (90, 206), thereby meeting the "center of gravity" limitation in each of claims 13 and 18 on appeal.

In conclusion, Landry teaches or would have suggested all structures required in claims 13 and 18 on appeal, and these claims would have been obvious to one of ordinary skill in the art within the meaning of 35 U.S.C. § 103(a) in view of Landry. Therefore, we affirm the Examiner's § 103(a) rejection of claims 13 and 18 on appeal. For similar reasons, we affirm the Examiner's § 103(a) rejection of dependent claims 14, 24, and 25 that depend from claim 13 and dependent claims 19, 20, 26, and 27 that depend directly or indirectly from claim 18 because Appellants did not provide any separate patentability arguments for these claims.

Obviousness Rejection of Claim 15

The teachings of Landry propose a number of alternative embodiments. The embodiments shown in Figs. 3-7 include hinge (192). In Figs. 3-5, hinge (192) is arranged so that base sections (194, 196) are coplanar. In Figs. 6 and 7, base section (194) is arranged at a 90° angle relative to base section (196). See, for example, paragraph 0031 of Landry.

Viewing Figs. 6 and 7 of Landry, one of ordinary skill in the art would have found it obvious to rotate or adjust base sections (194, 196) to be coplanar as shown in Figs. 3-5 of Landry. When the base sections (194, 196) are coplanar in the embodiment shown in Fig. 6 of Landry, the display (88) is in a horizontal position and forms two contact locations at opposing ends of the edge of the display on a support surface, while the member (204) of Landry forms a third contact point on the support surface. Thus, the

Appeal 2008-0955
Application 10/661,717

opposing ends of the edge of the display (88) and member (204) of Landry form triangular contact locations with a support surface, as required in claim 15 on appeal.

In conclusion, one of ordinary skill in the art would have found the invention defined in appealed claim 15, and claims 16 and 17 that depend thereon, obvious within the meaning of 35 U.S.C. § 103(a) in view of Landry at the time of the invention. Accordingly, we affirm the rejection of claims 15-17 under 35 U.S.C. §103(a)

CONCLUSION

1. The Examiner's decision rejecting claims 13-20 and 24-27 under 35 U.S.C. § 102(e) as being anticipated by Landry is reversed.
2. The Examiner's decision rejecting claims 13-20 and 24-27 under 35 U.S.C. § 103(a) as being unpatentable over Landry is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

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